

REVENUE SECRETARIAT

Issues instructions regarding Levy of interest on arrears recoverable as an arrear of land revenue

CIRCULAR

No RD 52 GWR 62-I, DATED BANGALORE, THE 20TH NOVEMBER 1962
(KARTHIKA 29, SAKA ERA 1884).

In Circular No RD 62 GWR 59, dated 25th May 1962 (a copy of which is appended) published in the *Mysore Gazette*, dated 7th June 1962, Part I, page 1, it has been clarified that interest may not be levied and recovered under Rule 94 of the Mysore Land Revenue Rule (and corresponding provisions of Land Revenue Rules/Board Standing Orders/Administrative Orders as in force in other integrated areas) in respect of dues other than Land Revenue, which are recoverable as arrears of land revenue unless the particular Act or Rule under which such dues are recoverable as an arrear of land revenue, specifically require or authorise levy and recovery of interest on such dues

2 So far as the levy of interest on water-rate is concerned the Divisional Commissioner, Mysore Division, Mysore, has raised certain points of doubt. The following clarification is therefore issued in this regard —

(1) Interest on arrears of water-rate can be levied in respect of irrigation projects completed prior to the promulgation of the Mysore Irrigation Act, 1932 (and corresponding Acts as in force in other areas) and to which these Acts do not apply, only if the Executive/Administrative orders sanctioning the construction of such works specifically provide for levy and recovery of such interest

(2) No interest on arrears of water-rate can be levied in respect of lands on which water-rate is levied under Section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water-rate) Act, 1957, under Section 53 of the Mysore Land Revenue Code (corresponding provisions of Land Revenue Codes and Boards Standing Orders) and on wet assessments levied under Section 114 of the Mysore Land Revenue Code and corresponding Land Revenue Codes/Standing Orders (as in force in other areas)

(3) No interest can be levied on arrears of water-rate in respect of lands on which the water-rate is levied under the Mysore Irrigation Act, 1932 as this Act does not provide for such levy. Interest can be levied on arrears which are recoverable as arrears of Land Revenue under the corresponding Irrigation Acts in force in other areas only, if the Acts and the Rules framed thereunder specifically provide for the levy of interest on them and recovery of the same.

S ABDUL WAJID,

*Under Secretary to Government,
Revenue Department.*

ANNEXURE.

Instructions regarding Levy of interest on arrears recoverable as Land Revenue

CIRCULAR

No. RD 62 GWR 59, DATED BANGALORE, THE 25TH MAY 1962

(JYEISHTA 4, SAKA ERA 1884).

According to Rule 94 of the Rules under the Mysore Land Revenue Code [and corresponding provisions of the Land Revenue Rules (Board Standing Orders/Administrative Orders) in force in other integrated areas] interest shall be charged on all arrears of revenue from the first of the year following that to which they relate, at the rate of one pie per rupee per month, portions of a month and fractions of a rupee being omitted in the calculation

2 The question whether interest can be charged under Rule 94 on amounts due, other than land revenue proper but which are recoverable as an arrear of land revenue such as contribution and water-rate under the Irrigation Act, came up for consideration in Writ Petition No 353 of 1959 before the High Court of Mysore. In the judgement of the High Court delivered on the 26th September 1961 (a copy of which is appended to this circular) the High Court have held that an arrear like contribution or water-rate which is recoverable under the Irrigation Act is not land revenue and that it is to be regarded as an arrear of land revenue only for purposes of recovery and that the arrear of contribution or water-rate when so treated does not make it land revenue or transform it into land revenue and that so long as it is not a land revenue the provisions of Rule 94 are not attracted and no interest is chargeable on it.

3. The principles laid down by the High Court apply *mutatis mutandis* to other amounts like Sales Tax, Income Tax, Agricultural Income Tax, etc, which are recoverable as an arrear of Land Revenue. It is therefore hereby clarified that interest may not be levied and recovered under Rule 94 of the Land Revenue Rules in respect of dues other than land revenue, which are recoverable as arrears of land revenue unless the particular Act or Rules, under which such dues are recoverable as arrear of land revenue, specifically require or authorise levy and recovery of interest on such dues.

S. ABDUL WAJID,
Under Secretary to Government,
Revenue Department.

APPENDIX.

IN THE HIGH COURT OF MYSORE AT BANGALORE

Dated this the 26th day of September 1961

PRESENT

The Hon'ble Mr Justice A R. Somnath Iyer

and

The Hon'ble Mr Justice Mu Iqbal Hussain

Writ Petition No. 353 of 1959

Shri H Ramanuja Iyengar, 140, Wilson Gardens, Bangalore-2

Petitioner

(By Shri S K Venkataranga Iyengar)

1 The State of Mysore by its Chief Secretary, Vidhana Soudha, Bangalore-1

Respondent

2 Special Tahsildar, Kunigal Taluk, Kunigal

(By Shri G Channappa, Assistant Advocate General)

Writ petition under Article 226 of the Constitution of India praying for the reasons stated in the affidavit, this Hon'ble Court may be pleased on holding that the levy of interest on the petitioner in respect of contribution and water rate regarding his lands bearing survey Nos 93 to 97 in Paduvagele Village, Amruthi Hobli, Kunigal Taluk, converted from dry to wet, consequent on the construction of the irrigation work known as the 'Markon-halli Reservoir', is unauthorised to issue a writ of mandamus and/or other appropriate writ directing the respondents to forbear from collecting the same and to pass such other consequential directions or orders including payment of costs to the petitioners, etc

This Petition coming on for hearing this day, the court made the following—

ORDER

Somnath Iyer J —

The short question arising in this case is whether, under the provisions of Section 30 of the Mysore Irrigation Act, interest on the contribution or water rate is also recoverable as a revenue demand

The petitioner is the owner of Survey Nos 93 to 97 in Paduvagele village, in the district of Tumkur, and, under the provisions of Section 30 of the Irrigation Act, contribution and water rate were payable by him. On his committing default in the payment of those amounts, respondent 2 proceeded to recover those amounts, together with interest which he charged thereon, as if the aggregate amount was an arrear of land revenue. The petitioner questions the validity of those proceedings.

It is not disputed that the contribution and water rate which were recoverable as a revenue demand under Section 30 of the Irrigation Act were recoverable from the petitioner as if they were arrears of land revenue. But, it is contended that interest on those amounts cannot be recovered as an arrear of land revenue.

Mr Assistant Advocate-General defended the recovery proceedings even in so far as they related to the recovery of interest as recovery properly commenced under Rule 94 of the Rules made under the Mysore Land Revenue Code. That rule reads —

“94. Interest shall be charged upon all arrears of revenue from the first or the year following that interest on arrears of revenue to which they relate at the rate of one pie per rupee per month, portions of a month, and fractions of a rupee being omitted in the calculation.”

It is true that under the provisions of that rule, interest may be charged upon arrears of revenue. But the amount on which such interest may be charged is land revenue payable under the provisions of the Land Revenue Code. But, contribution or water rate which are recoverable under Section 30 of the Irrigation Act is not land revenue and that position is, in my opinion, incontestable. It is to be regarded as an arrear of land revenue only for the purpose of recovery and for that limited purpose, it is treated as if it is an arrear of land revenue. But the fact that it is so treated does not make it land revenue or transform it into land revenue and so long as it is not land revenue, the provisions of Rule 94 are not attracted and no interest is chargeable on it.

This application must, therefore, succeed. The respondents are restrained from recovering any interest on the contribution and water-rate payable by the petitioner as an arrear of land revenue. That is the only order which we need make in this case.

The petitioner will get the costs of this application. Advocate's fee Rs 100

(Sd) A. R. SOMNATH IYER,
Judge

Mir Iqbal Husain J —
I agree

(Sd.) MIR IQBAL HUSAIN,
Judge